

MATTER OF GUERRA
In Bond Proceedings

A-13460457

Decided by Board October 17, 1968

The Board of Immigration Appeals lacks jurisdiction to entertain an appeal from a bond determination under 8 CFR 242.2(b), where the alien is being held in custody after having failed to appear for deportation.

ON BEHALF OF RESPONDENT: Constantine N. Kangles, Esquire
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(Memorandum filed)

This appeal takes issue with the actions of the District Director in issuing a warrant on August 8, 1968 for the arrest and detention of the alien and requiring the alien to be released under bond in the amount of \$3,500.

On June 24, 1968 the alien, native of Libya and citizen of Italy, was the subject of deportation proceedings brought under section 241(a)(2) of the Immigration and Nationality Act. The respondent requested the privilege of voluntary departure which was denied by the special inquiry officer on the finding that the respondent was not a person of good moral character. No appeal was taken from those findings. Upon the decision of the special inquiry officer finding that the respondent should be deported, the Immigration Service served upon the respondent notice on Form I-294 as to the country to which deportation had been directed and on August 2, 1968 the Service further notified the respondent of the departure arrangements made for his deportation. Failing to surrender himself for deportation, the instant warrant of deportation was issued and on September 23, 1968 the alien was brought into the custody of the Service.

The attorney for the alien states that the requirement of a bond in the amount of \$3,500 or the requirement of a bond for the release of said alien is unreasonable, inequitable and is excessive. Counsel for the alien further requested the alien's release on

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his recognizance and for other and further relief as the Board of Immigration Appeals may see fit to grant herein.

We are called upon to decide whether we have jurisdiction to accept the appeal in the instant matter. Pursuant to 8 CFR 242.2(b), a District Director . . . "May exercise the authority . . . to continue or detain an alien in, or release him from, custody, to determine whether an alien shall be released under bond, and the amount thereof if any . . . The alien may appeal to the Board of Immigration Appeals from any such determination. The foregoing provisions concerning notice, reporting and *appeal* shall *not apply* when the Service notifies the alien that it is ready to execute the order of deportation and takes him into custody for that purpose." (Emphasis supplied.) The warrant of arrest and the subsequent confinement came after the alien had failed to appear for deportation and as a consequence we are prohibited from assuming jurisdiction in the instant matter.

ORDER: It is ordered that the appeal be and the same is hereby dismissed.